

Remarks

Applicants have carefully reviewed the Office Action mailed December 10, 2007 regarding the above referenced application. Favorable reconsideration is respectfully requested in light of the above amendments and the following comments. Claim 1 has been amended to more particularly describe the invention while claim 2 has been amended for clarity. No new matter has been added, as these amendments are fully supported by the originally filed application.

Claims 1-10 have been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The Examiner asserts that the claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art, at the time the application was filed, had a possession of the claimed invention. Specifically, the Examiner asserts that the limitation, “the device is deformable about the exposed inner member from a first position to a second position, the exposed inner member provides a force tending to bias the medical device toward the first position,” of claim 1 is not supported by the specification. Applicants respectfully traverse the rejection.

Claim 1 has been amended such that the limitation now recites, “wherein, when the device is deformable about the exposed inner member from a first position to a second position, the exposed inner member tending to bias the medical device toward the first position.” Applicants assert that the specification teaches forming the exposed inner member to a set position, deforming it to a second position and the device returning to the first position. Support for the original formation of the first position can be found, for example, at page 12 line 7 through page 14 line 3. For example, page 13 line 20 through page 14 line 3 recite:

Once formed, the composite member 46 can then be attached to other similarly produced members to form the intravascular filter. As shown in Figure 14, when the composite member 46 is compressed within a delivery device (not shown) such as an introducer catheter, the inner member 50 compresses to a substantially straight position, allowing the intravascular filter to be loaded into a delivery device having a smaller profile. Upon deployment within the body, the exposed portion(s) of the inner member 50 revert to their predefined shape.

This describes a composite member starting in a first position, deformed into a second position and returning to a first position as is currently claimed. Withdrawal of the rejection is respectfully requested.

Claim 2 has been rejected under 35 U.S.C. §112, second paragraph as being indefinite for using a trademark/trade name to identify/describe the specific metal. Claim 2 has been amended to remove the trademark/trade names. Withdrawal of the rejection is respectfully requested.

Claims 1-4 and 6-9 have been rejected as being anticipated by Tomonto (US 6,425,855). Apparently, the Examiner intended to include claim 10 in this rejection, as claim 10 is acknowledged within the discussion of the rejection. Applicants respectfully traverse the rejection. In order to anticipate, the cited reference must disclose each and every claimed element. Tomonto fails to do so.

Claim 1, as amended, recites:

A composite medical device, comprising:
a composite elongated member formed from an outer member comprising a first material and an inner member comprising a second material different from the first material, the outer member encasing the inner member, wherein the second material is more elastic than the first material; and

at least one flexibility region formed on said composite elongated member, said flexibility region formed by selectively removing a portion of the outer member to expose the inner member, wherein, when the device is deformable about the exposed inner member from a first position to a second position, the exposed inner member ~~provides a force~~ tending to bias the medical device toward the first position.

The claimed invention requires that the inner member, which is formed of a second material that is more elastic than a first material used to form the outer member, is encased by the outer member. Tomonto does not appear to disclose the claimed structure.

Specifically, Tomonto does not appear to disclose a device having an outer member encasing an inner member. As can be seen in Figure 3 of the cited reference, Tomonto describes a device in which an outer layer is disposed on top of an inner layer. Tomonto does not appear to disclose an outer member encasing the inner member. This is a claimed feature missing from the cited reference.

At a minimum, Tomonto fails to disclose that the outer member encases the inner member. Thus, Tomonto cannot be considered as anticipating the claimed invention. Reconsideration and withdrawal of the rejection is respectfully requested. Applicants submit that claims 2-4 and 6-10 are also in condition for allowance as they depend from claim 1 and add significant limitations to further distinguish them from the prior art.

Claim 5 has been rejected as being unpatentable over Tomonto (US 6,425,855) in view of Moore (US 2004/0024444). Applicants respectfully traverse the rejection. Claim 1, from which claim 5 depends, is distinguished above as being patentable over Tomonto. As Moore is not believed to remedy the noted shortcomings of Tomonto, claim 1 is similarly patentable over both references. Claim 5 includes the elements of claim 1 and also adds further distinguishing features and thus is patentable for at least the same reasons as Claim 1. Favorable reconsideration is respectfully requested.

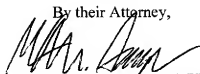
Reexamination and reconsideration are respectfully requested. It is respectfully submitted that the claims are now in condition for allowance, issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

ROBERT B. DEVRIES ET AL.

By their Attorney,

Date: March 5, 2009



Glenn M. Seager, Reg. No. 36,926
CROMPTON, SEAGER & TUFTE, LLC
1221 Nicollet Avenue, Suite 800
Minneapolis, Minnesota 55403-2420
Tel: (612) 677-9050